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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,935	09/16/2003	Abbas El Gamal	STFD.039PA (S01-276)	2325
40581	7590	07/07/2006	EXAMINER	
CRAWFORD MAUNU PLLC 1270 NORTHLAND DRIVE, SUITE 390 ST. PAUL, MN 55120			PHAM, HOA Q	
			ART UNIT	PAPER NUMBER
			2877	

DATE MAILED: 07/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/663,935	<b>Applicant(s)</b> GAMAL ET AL.	
	<b>Examiner</b> Hoa Q. Pham	<b>Art Unit</b> 2877	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-35 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/15/04</u> . | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to because the "text" of the drawings is in handwriting. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-2, 5-11, 15-20 and 22-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Goldman et al (6,825,927).

Regarding claims 1, 10-11 and 18-19; Goldman discloses in conjunction with Fig. 3, an active sensor system for detecting optical characteristics of one or more samples 28, the system comprising at least one substrate; multiple illumination elements 24 disposed on a first one of said at least one substrate, said illumination elements forming multi-pixel illumination source 22, whereby portions of said samples 28 are substantially uniquely illuminated by associated ones of said illumination elements 24, multiple detector elements 30 disposed on a second one of said at least one substrate and forming a multi-pixel detector 30 interspersed with said illumination elements, whereby light returning in response to said illumination from said portions of said samples are substantially uniquely detected by associated detector elements 30, an illumination control subsystem 38 coupled to said multiple illumination elements 24 for controlling said illumination of said portions of said samples 28, and a processing subsystem 38 coupled to the multiple detector elements 30 for producing an output indicating a detected optical signal corresponding to said light returning from said portions said samples 28 (col. 3, line 30-col. 5, line 67). Goldman teaches a sandwich structure between the LED array 22, sample well container 26, and detector array 30 (Fig. 3). Goldman further discloses placing both the illumination and detection systems in close

proximity to said samples (Fig. 3). It is further inherent that the detector (CCD) of Goldman individually detects each sample well 28, therefore each pixels of the CCD array is positionally associated with one or more of the sample wells 28 (col. 4, lines 38-42). Goldman further discloses that an imaging system (i.e. lens and filters) can be used within the system disclosed (col. 5, lines 45-52). It is further inherent that the system disclosed as a whole is integrated on one or more substrates. Goldman discloses a two-dimensional and one-dimensional configuration of illumination and detector elements (Fig. 3, 24).

Regarding claim 2, see memory (42) in figure 3.

Regarding claims 5 and 15, see column 4, line 45 for the use of photodiode.

Regarding claim 6, Goldman teaches the use of an optical filter for restricting a range of wavelength, thus it is inherent that the filter is a color filter (column 1, lines 38-45).

Regarding claims 7-8, see column 5, lines 9-13 for logic circuit such as timers, counters and latches; thus, the clock signal is inherently in this logic circuit.

Regarding claims 9 and 17, see column 3, line 36 and column 5, lines 3-9 for the use of A/D and D/A converters.

Regarding claim 16, see column 5, lines 61-62 for calibration of the fluorometer.

Regarding claim 20, Goldman teaches the use of a camera (column 4, lines 45-46).

Regarding claims 22-25, see column 3, lines 18-29 for detecting noise level within the wells.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3-4, 12-14, 21, 26-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldman et al.

Regarding claim 3, It would have been obvious to one having ordinary skill in the art at the time the invention was made to integrate the detectors, light sources, etc... on a substrate such as a MOS-based circuitry in because such an arrangement would provide a compact device.

Regarding claim 4, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include a temperature controller for controlling the temperature of the measurement system of Goldman et al due to the increase in the temperature of the light source or detector; thus, an accuracy of the measurement is obtained.

Regarding claims 12-14, it would have been a matter of desire choice to choose the photosensitive area matched to the assay size from 1 um to 2 mm. The rationale for this modification would have arisen from the fact that matching between the photosensitive area and the assay size would provide a better signal from the detector.

Regarding claim 21, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include to use the basic device of

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Goldman et al for determine different characteristics of the sample if additional measurements are desired.

Regarding claims 26-28, Goldman et al teaches the use of a personal computer and a digital to analog converter and combination with accessory circuitry (column 5, lines 3-7) and does not clearly teach the use of a decoder; however, it would have been obvious to replace the digital to analog converter of Goldman et al by a decoder circuitry for the same purpose of providing an analog data, thus they are function in the same manner.

Regarding claim 29, see claim 21 above.

Regarding claim 30, see column 5, lines 9-13 for logic circuit such as timers, counters and latches; thus, the clock signal is inherently in this logic circuit.

6. Claims 31-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldman et al as applied to claim 26 above, and further in view of Herron et al (6,222,619).

Goldman et al teaches the use of microplates for preparing the samples and does not use a plurality of reservoirs for delivering the sample; however, such a feature is known in the art as taught by Herron et al. Herron et al, from the same field of endeavor, teaches the use of a plurality of reservoirs (102, 104, 106) for preparing the samples (see figure 1). It would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the sample preparation device of

Goldman et al by a plurality of reservoirs of Herron et al because they are function in the same manner.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Cromwell et al (2005/0046847) discloses an active sensor method for optical illumination and detection.

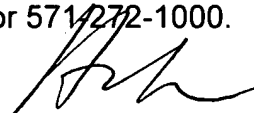
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoa Q. Pham whose telephone number is (571) 272-2426. The examiner can normally be reached on 7:30AM to 6 PM, Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory J. Toatley, Jr. can be reached on (571) 272-2800 ext. 77. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571/272-1000.



Hoa Q. Pham  
Primary Examiner  
Art Unit 2877

HP  
June 21, 2006